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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,932	09/29/2003	Teck Hu	17	1634

7590 11/16/2006

Docket Administrator (Room 3J-219)  
Lucent Technologies Inc.  
101 Crawfords Corner Road  
Holmdel, NJ 07733-3030

EXAMINER
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NGUYEN, KHAI MINH

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/673,932

Applicant(s)

HU, TECK

Examiner

Khai M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-16 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 14-16, and 18-24 is/are rejected.
- 7) ☒ Claim(s) 7-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's argument with respect to claim 1-3, 6-16, and 18-24 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by ETSI TS 122 146 V.5.2.0 (2002-2003).

Regarding claim 1, ETSI teaches a method of wireless communication with a number of subscribers to a subscription-based service (fig.2, pages 7-8, section 4.2), the method comprising:

determining the number of multicast service subscribers within a cell (home environment) (fig.2, section 4.2, section 4.2.1, and section 5.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising);

determining at least one of a geographical distribution of a number of multicast service subscribers (fig.2, section 4.2, section 4.2.1, and section 5.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising) and a subscription distribution of the number of multicast service subscribers within the cell (home environment) (fig.2, pages 7-8, section 4.2, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising); and

assigning at least one service rate to at least one of a plurality of subscription-based service types (fig.2, section 4.2, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising) in response to at least one of channel conditions (pages 8-9, section 4.2.1, section 4.3), power requirements, service subscription type, desired content, other services and equipment class of each subscriber (pages 9-10, section 5.1.1-5.1.2).

Regarding claim 15, ETSI teaches a method of wireless communication comprising:

receiving a subscription-based service at an assigned service rate (section 5.1.2), the assigned service rate corresponding with at least one of plurality of service subscription types and at least one of desired content (fig.2, section 4.2, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising), channel conditions, power requirements, other services and equipment class (pages 8-9, section 4.2.1, section 4.3), and further corresponding to at

least one of a determined geographical distribution of a number of multicast service subscribers (fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising) and a determined subscription distribution of the number of multicast service subscribers within the cell (fig.2, section 4.2, section 4.2.1, and section 5.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3, 6, 14, 16, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over ETSI TS 122 146 V.5.2.0 (2002-2003) in view of Koulakiotis et al. (U.S.Pub-20030104801).

Regarding claim 2, ETSI teaches the method of claim 1, wherein the subscription-based service comprises at least a multicast service (fig.2, section 4.2, section 4.2.1, and section 5.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising),

ETSI fails to specifically disclose the at least one service rate comprises at least one multicast rate, and said at least one of the subscription-based service type

comprises at least a multicast service subscription type. However, Koulakiotis teaches the at least one service rate comprises at least one multicast rate (paragraph 0008, 0015-0016), and at least one of the subscription-based service type comprises at least a multicast service subscription type (paragraph 0006, 0068). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Koulakiotis to ETSI to providing a service to a user comprising the steps of defining an area in which the service is available.

Regarding claim 3, Koulakiotis and ETSI further teach the method of claim 2, wherein the multicast service subscription type comprises at least one of a basic type and a premium type (see Koulakiotis, paragraph 0006, see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 6, Koulakiotis and ETSI further teach the method of claim 2, comprising: multicasting information to each of the multicast service subscribers at each multicast service subscription type's assigned multicast rate (see Koulakiotis, paragraph 0006, 0068, see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 14, Koulakiotis and ETSI further teach the method of claim 2, wherein the other services comprises at least one of voice, HSDPA and HSUPA (see

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ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 16, ETSI teaches the method of claim 15,

ETSI fails to specifically disclose the subscription-based service comprises at least a multicast service, the at least one service rate comprises at least one multicast rate, and the service subscription type comprises at least a multicast service subscription type. However, Koulakiotis teaches the subscription-based service comprises at least a multicast service (paragraph 0006), the at least one service rate comprises at least one multicast rate (paragraph 0008, 0015-0016), and the service subscription type comprises at least a multicast service subscription type (paragraph 0006, 0068). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Koulakiotis to ETSI to providing a service to a user comprising the steps of defining an area in which the service is available.

Regarding claim 17, Koulakiotis and ETSI further teach the method of claim 16, wherein the assigned multicast rate further corresponds with at least one of a geographical distribution of a number of multicast service subscribers (see Koulakiotis, paragraph 0006, 0032) and a subscription distribution of the number of multicast service subscribers within a cell (see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 18, Koulakiotis and ETSI further teach the method of claim 16, wherein the multicast service subscription type comprises at least one of a basic type and a premium type (see Koulakiotis, paragraph 0006).

Regarding claim 19, Koulakiotis and ETSI further teach the method of claim 16, comprising: prioritizing the other services and the multicast service subscription service (see Koulakiotis, fig.3, paragraph 0007, 0029-0030).

Regarding claim 20, Koulakiotis and ETSI further teach the method of claim 19, comprising: scaling the multicast service subscription types available for assigning in response to a change in demand for the other services (see Koulakiotis, paragraph 0006, 0068).

Regarding claim 21, Koulakiotis and ETSI further teach the method of claim 20, wherein the step of scaling comprises at least one of dropping and adding support for at least one of the multicast service subscription types (see Koulakiotis, paragraph 0030-0032).

Regarding claim 22, Koulakiotis and ETSI further teach the method of claim 21, wherein the demand corresponds with at least one of power, channelization codes, and subscription fees (see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 23, Koulakiotis and ETSI further teach the method of claim 19, wherein the other services comprises at least one of voice, HSDPA and HSUPA (see



ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 24, Koulakiotis and ETSI further teach the method of claim 16, wherein the equipment class corresponds with at least one supporting channelization code (see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

#### ***Allowable Subject Matter***

4. Claims 7-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

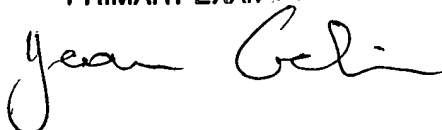
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph feild can be reached on 571.272.4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Khai Nguyen  
Au: 2617

**JEAN GELIN**  
**PRIMARY EXAMINER**

A handwritten signature in cursive script, appearing to read "Jean Gelin", written in black ink.

11/10/2006